

Message Text

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TO AMEMBASSY PANAMA IMMEDIATE

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E.O. 11652:GDS

TAGS:PFOR/PN

SUBJECT: U.S.-PANAMA TREATY NEGOTIATIONS: TEXT OF
PANAMANIAN COUNTER-OFFER TO THE UNITED STATES' OFFER OF
SEPTEMBER 5.

REF: STATE 258400

FOR THE AMBASSADOR FROM BELL

1. FOLLOWING IS THE ENGLISH-TRANSLATION TEXT OF THE
PANAMANIAN COUNTER-OFFER WHICH GONZALEZ-REVILLA DELIVERED
OCTOBER 29. I GAVE A COPY TO TOM DOLVIN JUST BEFORE HE
LEFT SO THAT HE COULD PONDER IT IN PREPARATION FOR HIS
TRIP TO PANAMA, AND SINCE HE HAD PARTICIPATED IN OUR
"FIRST-BLUSH" DISCUSSION OF IT HERE WITH ELLSWORTH
(WHEN IT WAS STILL IN SPANISH TEXT ONLY).

2. KNOWING HOW SWIFTLY THINGS MOVE IN MILITARY CHANNELS,
ASSUME THAT YOUR PANAMA REVIEW COMMITTEE COLLEAGUES WILL
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HAVE IT SHORTLY, IF THEY DO NOT ALREADY.

3. BUT ASSUME ALSO THAT THEY WILL HAVE SEEN THE MESSAGE
ASKING YOU TO TRANSMIT PERSONAL WORDS FROM ELLSWORTH TO
TACK ON THIS MATTER.

4. BEGIN QUOTE:

----- I.

IN CONFORMITY WITH THE EIGHT PRINCIPLES OF THE TACK-
KISSINGER DECLARATION OF FEBRUARY 7, 1974;

BASED ON THE THRESHOLD AGREEMENTS ON JURISDICTION AND
RIGHTS OF USE, INCREASING PANAMANIAN PARTICIPATION IN
THE ADMINISTRATION OF THE CANAL, AND PROTECTION AND DE-
FENSE OF THE CANAL, APPROVED ON NOVEMBER 6, 1974 BY THE
PRINCIPAL NEGOTIATORS; AND

BY VIRTUE OF THE FACT THAT UPON ABROGATION OF THE TREATIES
THAT NOW GOVERN THE RELATIONS BETWEEN PANAMA AND THE
UNITED STATES PANAMA WILL RESUME TOTAL, REAL, AND EFFECTIVE
JURISDICTION IN THAT PART OF ITS TERRITORY WHICH IS NOW
KNOWN AS THE "CANAL ZONE";

PANAMA PROPOSES:

----- II.

A. THE DURATION OF THE NEW TREATY CONCERNING THE PANAMA
CANAL SHALL NOT GO BEYOND DECEMBER 31, 1999.

B. WHEN THE NEW TREATY ENTERS INTO FORCE AND THE PRESENT
PANAMA CANAL COMPANY IS ABOLISHED, THE NEW ADMINISTRATIVE
AGENCY TO BE ESTABLISHED JOINTLY BY THE TWO GOVERNMENTS
SHALL HAVE THE PRIMARY FUNCTION OF GUARANTEEING PANAMA'S
INCREASING PARTICIPATION IN THE ADMINISTRATION OF THE
CANAL UNTIL PANAMA ASSUMES COMPLETE AND ABSOLUTE CONTROL
OF SUCH ADMINISTRATION UPON TERMINATION OF THE TREATY.

C. THE NEW TREATY SHALL ESTABLISH CLEARLY THAT PANAMA,
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AS THE TERRITORIAL SOVEREIGN, HAS RESPONSIBILITY FOR
PROTECTING AND DEFENDING ALL ITS TERRITORY; IT SHALL
ENSURE PANAMA'S INCREASING PARTICIPATION IN THE PROTECTION
AND DEFENSE OF THE INTEROCEANIC WATERWAY UNTIL SUCH TIME
AS, UPON TERMINATION OF THE TREATY, PANAMA ASSUMES COM-
PLETE AND ABSOLUTE RESPONSIBILITY FOR THE PROTECTION AND
DEFENSE OF THE CANAL.

THE PRESENCE OF A CERTAIN PREESTABLISHED LEVEL OF UNITED STATES ARMED FORCES IN THE PANAMANIAN TERRITORY SHALL BE GOVERNED BY A STATUS OF FORCES AGREEMENT.

THE PRESENCE OF THE UNITED STATES ARMED FORCES IN PANAMANIAN TERRITORY THAT IS SET FORTH IN THE NEW TREATY

FOR THE PURPOSES OF THE PROTECTION AND DEFENSE (OF THE CANAL) SHALL DECREASE GRADUALLY, AS AGREED BY THE PARTIES, UNTIL IT IS DEFINITELY ELIMINATED UPON TERMINATION OF THE TREATY.

D. THE NEW TREATY SHALL HAVE A SPECIFIC CLAUSE ON ARBITRATION, IN CONFORMITY WITH THE PRINCIPLES ESTABLISHED BY THE UNITED NATIONS, WHICH ELIMINATES ANY POSSIBILITY OF UNILATERAL INTERPRETATION OF THE NEW TREATY.

----- III.

A. THE NEW TREATY SHALL SET FORTH CLEARLY THE REAL AND EFFECTIVE NEUTRALITY OF THE PANAMA CANAL IN PEACETIME AND IN WARTIME, BASED ON PANAMA'S PLEDGE TO INVITE ALL COUNTRIES OF THE WORLD, UNDER THE AUSPICES OF THE UNITED NATIONS ORGANIZATION, TO ACCEPT THE REGIME OF PERMANENT NEUTRALITY AND TO GUARANTEE IT MULTILATERALLY.

----- IV.

A. WHEN THE "CANAL ZONE" DISAPPEARS IN CONFORMITY WITH THE DECLARATION OF FEBRUARY 7, 1974, UNITED STATES CITIZENS WHO REMAIN WORKING AT CANAL ACTIVITIES UNDER THE NEW ADMINISTRATIVE AGENCY TO BE ESTABLISHED BY THE TWO COUNTRIES SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:

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(A) THE JURISDICTION OF PANAMA OVER SUCH CITIZENS

-- SHALL BE REAL AND EFFECTIVE;

(B) LABOR ADVANTAGES GAINED UP TO THE TIME OF

-- ENTRY INTO FORCE OF THE NEW TREATY SHALL BE

-- TAKEN INTO ACCOUNT;

(C) PANAMA'S INCREASING PARTICIPATION IN ALL ASPECTS

-- AND AT ALL LEVELS OF THE ADMINISTRATION OF THE

-- CANAL SHALL BE REAL. THEREFORE, PANAMANIAN

-- WORKERS SHALL HAVE EMPLOYMENT PREFERENCE AND

-- SO-CALLED SECURITY POSITIONS SHALL BE ELIMINATED.

----- V.

A. WITH RESPECT TO NEW WORKS, THE NEW TREATY SHALL SET FORTH CLEARLY WHAT IS ESTABLISHED IN PRINCIPLE 8 OF THE TACK-KISSINGER DECLARATION OF FEBRUARY 7, 1974, WHICH READS AS FOLLOWS:

"THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PANAMA, RECOGNIZING THE IMPORTANT SERVICES RENDERED BY THE INTEROCEANIC PANAMA CANAL TO INTERNATIONAL MARITIME TRAFFIC, AND BEARING IN MIND THE POSSIBILITY THAT THE PRESENT CANAL COULD BECOME INADEQUATE FOR SAID TRAFFIC, SHALL AGREE BILATERALLY ON PROVISIONS FOR NEW PROJECTS WHICH WILL ENLARGE CANAL CAPACITY. SUCH PROVISIONS WILL BE INCORPORATED IN THE NEW TREATY IN ACCORD WITH THE CONCEPTS ESTABLISHED IN PRINCIPLE 2." (PRINCIPLE 2 OF THE TACK-KISSINGER DECLARATION STATES: "THE CONCEPT OF PERPETUITY WILL BE ELIMINATED. THE NEW TREATY CONCERNING THE LOCK CANAL SHALL HAVE A FIXED TERMINATION DATE.")

B. THE FOREGOING MEANS THAT NECESSARY PROVISIONS MAY BE INCLUDED IN THE NEW TREATY TO ENABLE THE TWO PARTIES TO CONCLUDE BILATERAL AGREEMENTS, FOR A PERIOD NOT TO EXCEED FIVE YEARS BEGINNING WITH THE ENTRY INTO FORCE OF THE TREATY, ON THE CONSTRUCTION OF NEW WORKS TO ENLARGE THE CAPACITY OF THE PRESENT LOCK CANAL.

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IT ALSO MEANS THAT THERE SHALL BE NO EXCLUSIVE RIGHTS OF THE UNITED STATES OR AUTOMATIC EXTENSIONS OF ANY TYPE GRANTED BY PANAMA TO THE UNITED STATES.

----- VI.

A. WITH RESPECT TO LAND AND WATER AREAS, THE NEW TREATY SHALL ESTABLISH CLEARLY THE PRACTICAL MANNER IN WHICH THE REPUBLIC OF PANAMA, IN ITS CAPACITY AS TERRITORIAL SOVEREIGN, SHALL GRANT THE UNITED STATES OF AMERICA, FOR THE DURATION OF THE NEW TREATY, THE RIGHTS OF USE OF SUCH LIMITED LAND AND WATER AREAS AND AIRSPACE AS MAY BE NECESSARY FOR THE PURPOSES OF THE CANAL.

B. THE STATUS OF FORCES AGREEMENT SHALL HAVE AN ANNEX ESTABLISHING CLEARLY WHICH LIMITED PANAMANIAN LAND AND WATER AREAS PANAMA SHALL DEVOTE TO MILITARY ACTIVITIES IN CONNECTION WITH THE PROTECTION AND DEFENSE OF THE CANAL, AND ONLY FOR THE DURATION OF THE TREATY.

----- VII.

A. THE MATTER OF THE REPUBLIC OF PANAMA'S SHARE IN THE
FINANCIAL PROFITS DERIVED FROM THE OPERATION OF THE CANAL
IN ITS TERRITORY SHALL BE DEALT WITH AT THE END OF THE
NEGOTIATIONS, AND THE TREATY SHALL SET FORTH THE AGREE-

MENTS REACHED BY THE TWO PARTIES IN THAT CONNECTION.
HOWEVER, THIS MATTER SHALL BE BASED ON THE RECOGNIZED
FACT THAT THE REPUBLIC OF PANAMA'S GEOGRAPHIC POSITION
CONSTITUTES ITS CHIEF NATURAL RESOURCE.

----- VIII.

A. THE NEW TREATY SHALL ESTABLISH THAT THE GOVERNMENT
OF PANAMA AND THE GOVERNMENT OF THE UNITED STATES SHALL
HAVE DIRECT RESPONSIBILITY FOR THE ENFORCEMENT OF THE
PROVISIONS OF THE TREATY. END QUOTE. KISSINGER

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